



**Before The
State of Wisconsin
DIVISION OF HEARINGS AND APPEALS**

In the Matter of the Wisconsin Pollutant Discharge
Elimination System Permit No. WI-0064815-02-0
(WPDES Permit) Issued to Richfield Dairy, LLC

Case No. DNR-17-0006

NOTICE OF PREHEARING CONFERENCE

On February 10, 2017, the Department of Natural Resources (DNR) issued a Wisconsin Pollutant Discharge Elimination System (WPDES) Permit, No. WI-0064815-02-0, to Richfield Dairy, LLC, to regulate the discharge from a livestock operation located in the Town of Richfield, Adams County, in the Little Roche Cri Creek Watershed of the Central Wisconsin River Basin to Fordham Creek, Little Roche Creek and the groundwaters of the State of Wisconsin.

On March 30, 2017, the Pleasant Lake Management District, Jean MacCubbin, Jon Walsh, Emily Hein, Lynn Templeton, and Brittney Clauson-Semrow, filed a Petition for a Contested Case Hearing with the DNR, pursuant to Wis. Stat. §§ 227.42 and 283.63, and Wis. Admin. Code Chapter NR 2.05, to contest the permit.

By letter dated May 25, 2017, the DNR granted the request for contested case hearing and limited the hearing to the following issues:

1. Whether the absence of an animal unit cap in the Permit is unreasonable, in light of applicable law and the ALJ Order dated September 3, 2014, Division of Hearings and Appeals, Docket IH-12-08.
2. Whether the 6,270 animal units referenced in the nutrient management plan is unreasonable, in light of applicable law because of the water quantity limit of 52.5 million gallons per year of water authorized by the facility's high capacity well approval.
3. Whether Section 2.1 is unreasonable because it does not indicate whether the facility is eligible for alternative concentration limits and, if so, because it does not include such limits.
4. Whether Section 1.5 is unreasonable in its authorization of land spreading of manure, in light of ch. 283, Wis. Stats., and ch. NR 243, Wis. Adm. Code?
5. Whether Sections 1.1 through 1.5 unreasonably authorize discharges of wastewater in excess of allowable standards, including discharges to groundwater that cause or contribute to exceedances of groundwater standards.

6. Whether Sections 1.5 .8, 1.6.1, 1.6.2, and 1. 7 are unreasonable, to the extent that they do not require any groundwater monitoring or sampling on landspreading sites.
7. Whether the discharge and groundwater monitoring required by the permit are unreasonable in that it is insufficient to determine whether the permittee is complying with applicable groundwater protection standards and to protect groundwater and drinking water supplies.
8. Whether the permit unreasonably lacks pollutant discharge limitations necessary to comply with applicable law and protect health, safety, and welfare of Petitioners and other members of the public in the vicinity of the permittee's facility who rely on groundwater for drinking water.

On June 16, 2017, the Division of Hearings and Appeals received a Request for Hearing from the DNR.

NOTICE IS HEREBY GIVEN that the State of Wisconsin Division of Hearings and Appeals will hold a prehearing conference on the above-captioned matter pursuant to Wis. Stat. §§ 227.44, Wis. Admin. Code § NR 2.08(5), and Wis. Admin. Code § NR 2.12, **at 9:30 AM on August 7, 2017**, at the offices of the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, Wisconsin. Any person, organization or governmental unit wishing to become a party to this proceeding must appear at the conference in person or by an authorized representative. The purpose of the prehearing conference will be to identify parties to the proceeding, to simplify or clarify the issues which may be contested at the hearing, identify witnesses, discuss the exchange of exhibits, establish a discovery schedule, address any other matters as may aid in the disposition of the action, and schedule a date for the contested case hearing. No testimony will be heard at the prehearing conference; however, a date may be selected for a contested case hearing.

If a contested case hearing is scheduled, it will be a Class 1 contested case pursuant to Wis. Stat. § 227.01(3)(a). The procedures set forth in Wis. Stat. § 283.63(1)(b) and the procedures relating to contested cases set forth in Wis. Admin. Code Ch. NR. 2 will be followed. The procedures that will be followed at the contested case hearing will closely resemble those that are normally followed at a trial in State circuit court. All parties are advised that they have the right to seek the aid and assistance of legal counsel and to be represented by legal counsel at the contested case hearing.

The permits, petitions and other information relating to the petitioner are on file and may be inspected and copied at the offices of the Department of Natural Resources, 101 South Webster Street, Madison, Wisconsin, between the hours of 9:00 a.m. and 3:30 p.m., Monday through Friday, holidays excepted. Copies of documents on file for the applicant may be obtained by writing to the Department of Natural Resources, WPDES Permit Section, P.O. Box 7921, Madison, Wisconsin, 53707-7921. Reasonable costs will be charged for copies of all information excluding public notices and fact sheets.

Pursuant to the Americans With Disabilities Act, reasonable accommodations will be made to any qualified individual upon request. Please call the Division of Hearings and Appeals

at (608) 266-3865 with specific information on your request prior to the date of the scheduled prehearing or hearing.

Dated at Milwaukee, Wisconsin on June 21, 2017.

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By



ERIC D. DEFORT
ADMINISTRATIVE LAW JUDGE